Docketing No. 1391/1275

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	Appeal No. _____
)	
MICHAEL McHALE)	
GEORGE NICHTULA)	
CHRISTINE L. CORRIVEAU)	
WILLIAM WOKAS)	
)	
Serial No. 08/044,240)	Group Art Unit: 1302
)	
Filed: April 7, 1993)	Examiner: C. Sherrer
)	
For: MULTI-PHASE SHEETED)	
CHEWING GUM AND METHOD)	
AND APPARATUS FOR MAKING)	

APPLICANTS' REPLY TO THE
SUPPLEMENTAL EXAMINER'S ANSWER

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants respectfully submit the following
reply to the SUPPLEMENTAL EXAMINER'S ANSWER dated
November 15, 1996. This reply addresses only the
supplemental points raised by the Examiner.

First, the Examiner argues that there is no
basis in the specification for Applicants' assertion
that the first mass contains the second mass on three
sides so that the second mass cannot run or leak
through the product. In response, the specification
states:

> The second mass is smaller than the
> first mass and is embedded in the
> first mass so as to be visible with

the first mass from the top surface
of the chewing gum (p. 2 lines 6-8)

* * * * *

Referring also to the cross-section
in Figure 2, it can be seen that
this novel chewing gum product
includes a first mass of chewing
gum 13 and a second mass of a
confectionery product 15 which has
a different color from the first
mass and which is embedded in and
visible from the top surface of the
first mass. . . <u>Preferably, the
second mass is not visible from the
bottom surface of the first mass</u>
(p. 5 lines 17-24).

Figure 2 plainly shows a second mass 15

surrounded on three sides (left side, bottom side, and

right side) by a first mass 13. The drawing, taken in

conjunction with the above-quoted passages, plainly

supports Applicants' position. The specification also

teaches the use of chocolate, taffy, marshmallow, etc.

as the second mass. These confections are known to

liquify and run at temperatures typical of molten

chewing gum. Further explanation is not necessary to

ensure an understanding by persons skilled in the art.

The Examiner argues that the specification

does not give temperature profiles of the second masses

as the chewing gum is made. Again, it is well known

that chewing gum in a molten state is hot enough to

melt chocolate, etc. Also, a molten chewing gum

temperature of about 140°F is disclosed at p. 8, line

25, and is hot enough to melt chocolate. Further

discussion of temperature is not necessary.

Finally, the Examiner argues that there is no disclosure of a cooling step to harden the product for cutting. It is well known to persons skilled in the art that molten chewing gum is cooled before being cut. Molten gum is hard to cut. The purpose of the specification is to describe the _invention_ to persons skilled in the art. A detailed explanation of conventional processing techniques, old in the art, is not necessary to achieve this end.

In summary, the invention as claimed is fully supported by the specification.

Respectfully submitted,

Maxwell J. Petersen
Reg. No. 32,772
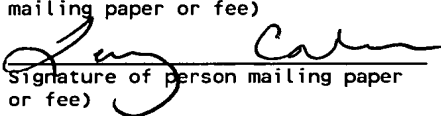
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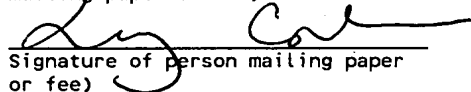P.O. Box 10395
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